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COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 34th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 22 February 1994, at 10 a.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

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The meeting was called to order at 10.15 a.m.

STATEMENT BY THE SECRETARY-GENERAL OF THE FOURTH WORLD CONFERENCE ON WOMEN

1. The CHAIRMAN invited the Secretary-General of the Fourth World Conference on Women to address the Commission.

2. Mrs. MONGELLA (Assistant Secretary-General and Secretary-General of the Fourth World Conference on Women) said that the prohibition of discrimination on the basis of sex formed part of all the major human rights instruments. In practical terms, however, the treatment of human rights at the international level remained generic rather than gender-specific, and the de facto enjoyment by women of their rights often lagged far behind, because of a discriminatory interpretation and application of laws. A similar situation prevailed at the national and community levels, often reinforced by culture, religious beliefs and societal norms.

3. The Convention on the Elimination of All Forms of Discrimination against Women recognized discrimination at both the private and public levels as a major obstacle to women's advancement. Despite the large number of ratifications of the Convention, States parties had not brought their laws and practice fully into line with its provisions, and many of the reservations entered under the Convention concerned provisions that were critical to the realization and enjoyment of women's rights. A need therefore existed to strengthen the ability of the Commission and the other human rights mechanisms to deal with gender-based discrimination and the resulting gender-specific human rights violations throughout a woman's life cycle.

4. The work of the Commission on the Status of Women had revealed that women's unequal status started in the family and continued at all levels of society. It was caused by the systematic, pervasive and cultural nature of discrimination, which women experienced in both public and private life. Structural discrimination institutionalized women's unequal enjoyment of their political, economic and social rights. In that sense, the change required to implement the human rights of women within society must likewise be structural. At the same time, the monitoring of the Convention's implementation by the Committee on the Elimination of Discrimination against Women revealed the lack of commitment to, and accountability of nations for, the realization of women's human rights.

5. In many countries, the laws were inadequate to protect women's rights. For example, women's access to ownership of property, land, capital and other means of production was often denied or not guaranteed. That resulted in growing poverty among women around the world. While they had the right to vote in most countries, women lacked equal access to the power structures that shaped society.

6. The high level of violence against women was an indication of inadequate mechanisms to prevent it, inadequate laws to sanction it and inadequate efforts by public authorities to enforce the existing laws. In situations of armed and other kinds of conflicts, women's vulnerability was a reflection of their inequality. They were subjected to violations of their basic human rights through torture, disappearance and rape as a weapon of war. The accountability of Governments for such acts had rarely been invoked.

7. The efforts of the Commission on the Status of Women to address the problem of violence against women had culminated in December 1993 in the adoption by the General Assembly of the Declaration on the Elimination of Violence against Women. In 1992, the Committee on the Elimination of Discrimination against Women had adopted general recommendation 19 on violence against women, which gave detailed comments to the States parties to the Convention concerning gender-based violence, making it clear that such violence constituted discrimination within the meaning of article 1 of the Convention. The Vienna Declaration and Programme of Action also placed unprecedented emphasis on eliminating violence against women.

8. Relationships between men and women in the family were characterized in all societies by the inferior status accorded to the roles performed by women in the domestic sphere. The family was a place where much of the gender-based violence and discrimination occurred and the unequal treatment of boys and girls with regard to access to education, health services and life's opportunities in general were perpetuated. There were still many countries where the law and practice concerning inheritance and property ownership within the family seriously discriminated against women.

9. Measures to ensure human rights education for women remained limited. The absence of appropriate recourse mechanisms at the national and international levels to enforce women's human rights and inadequate resource allocation at all levels for institutions monitoring the violations of such rights were indications of a disregard for women's human rights needs.

10. The Fourth World Conference on Women, to be held from 4 to 15 September 1995 in Beijing, China, would evaluate the progress made in the advancement of women and identify the strategic action necessary for the realization of the goals of the Nairobi Forward-looking Strategies for the Advancement of Women to the year 2000. The Conference was called upon to find new and more effective ways to ensure that women throughout the world could enjoy human rights.

11. The follow-up to the World Conference on Human Rights provided an opportunity to systematize cooperation between the Centre for Human Rights and the Division for the Advancement of Women. Efforts were being made to establish a mechanism within the Division that would link its activities to those of the general human rights regime. The Division would work with the Centre in ensuring that the human rights activities of the United Nations regularly addressed violations of women's human rights, including gender-specific abuses, as had been requested by the Vienna Conference and reiterated in General Assembly resolution 48/108.

12. The expected appointment of a special rapporteur on violence against women at the Commission's current session demonstrated the commitment of the Member States of the United Nations to eliminating violence against women. The special rapporteur must be given a mandate not only to report on violence and its causes but also to suggest action. There must be a built-in mechanism within the human rights regime to implement his or her findings in a specified time frame. Serious consideration must also be given to the allocation of adequate resources so that the special rapporteur could function efficiently, since experience taught that institutions serving women were usually underfunded and marginalized. There should also be provisions for regular consultations between the special rapporteur, the Committee on the Elimination of Discrimination against Women and the Division for the Advancement of Women.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 10) (continued) (E/CN.4/1994/24, 25 and Add.1, 26 and Corr.1 and Add.1, 27, 28, 29 and Add.1, 30-33, 88 and Corr.1, 93 and Corr.1 and 103; E/CN.4/Sub.2/1993/8, 9, 23/Rev.1, 24 and Add.1 and 2 and 25; E/CN.4/Sub.2/1992/10; A/48/520; E/CN.4/1994/NGO/5, 8, 10, 11, 18, 19, 21, 25 and 36)

13. Mr. PEREZ NOVOA (Cuba) said that the campaign against torture and other cruel, inhuman or degrading treatment must be a basic priority in the promotion of human rights. The international community must, however, be wary of spurious or perfidious allegations levelled against a country for political reasons and should reject reports that were inconsistent with the conduct generally attributed to that country.

14. He regretted that, in the United States of America, human rights advocates had for years been the target of harassment, in particular when such persons were members of indigenous peoples or black or Latin American ethnic minorities. The United States investigative system and judiciary had too often served to misrepresent political activists as common criminals, sentencing them to prison terms of 60 to 70 years or more.

15. His delegation wished to reiterate the comments it had made in previous years on the activities of the Working Group on Arbitrary Detention and to draw the Commission's attention to Government's communications to the Group on its working methods. The Working Group must avoid exceeding its mandate, as set forth in Commission resolution 1991/42, because that would place it in a delicate area that was within the sole jurisdiction of the national courts. He hoped that the Working Group would continue to recognize Cuba's systematic and

constant cooperation, not only in replying to all communications but also in formulating substantive suggestions on the manner in which the Group could proceed with its work, and would continue to be guided by the principles of discretion, objectivity, impartiality and non-selectivity.

16. The growing social polarization brought about by the distribution of wealth, particularly but not only in the so-called developed market-economy societies, and the resurgence of harsh policies calling for greater repression as an answer to society's ills, together with the difficult living conditions of the vast majority of the world's population and the growing inability of States to meet the needs of their peoples for well-being and dignity, were clearly aggravating the current problems of crime prevention, the treatment of criminals and the creation of a proper judicial system. That must be borne in mind by those endeavouring to implement the relevant international instruments.

17. With regard to the question of impunity, his delegation reiterated its concern that certain practices and rules had impeded the establishment of the truth, the smooth administration of justice and the granting of compensation to the victims and their families. It was imperative to abolish all legislation that led to the impunity of those responsible for grave human rights violations.

18. Of the draft resolutions currently under discussion, his delegation was particularly interested in the text on persons affected by the AIDS virus, in which it would be useful to include a reference to the need for States and the competent national institutions to guarantee equal access for all persons with AIDS to the costly therapy that the illness entailed.

19. The international community had recently been shocked to learn that scientific experiments had been conducted in a number of Western countries, particularly the United States of America, in which human beings had been exposed to radiation, often without their consent. At the University of Vanderbilt, pregnant women had been irradiated to study the effects on the foetus; at the University of Chicago, a number of people had been injected with plutonium without their consent; prisoners in Oregon had been exposed to high doses of X-rays on their testicles; prisoners in Seattle had been exposed to radiation in experiments on male sterility; and the United States Department of Defense had conducted some 250 experiments with radiation on thousands of innocent victims. Such events could not remain unpunished, and the victims and their families must receive compensation.

20. There was a growing tendency to standardize national legislation by adopting so-called "model codes" in such areas as the administration of justice or states of emergency. In the preparation of such texts, it was necessary to take account of the different legal systems and cultural and social traditions around the world, since to do otherwise would be in flagrant contradiction with the principle of the sovereign equality of States.

21. Mr. PARTOW (Arab Lawyers Union) said that, as in previous years, 1993 had been marked by serious human rights violations in almost all Arab countries, including the territories occupied by Israel. Numerous cases of arbitrary detention, extrajudicial executions and torture had been reported. A number

of Governments, assisted by certain non-governmental organizations (NGOs) currently attending the Commission's session, were practising a reverse terrorism against so-called militant Islamic groups for the purpose of slandering the name of Islam. While such groups must be condemned for their indiscriminate violence against civilians and for disregarding the Islamic tenet of tolerance, the arbitrary detention and torture of their members could not be condoned, and the condemnation of those groups must not be generalized to include all of Islam.

22. The work of the NGOs was made more difficult by the double standard employed by certain Western Powers in dealing with issues that directly affected the lives of the Middle East's inhabitants. That applied equally to the tragedy of Bosnia's Muslims, even if the international community were eventually to intervene and stop the repeated massacres and destroy the Serb concentration camps. Many Governments whose representatives were attending the current session seemed to think that an intervention would absolve them of their criminal passivity in the face of the massacres of Bosnian Muslims that the Serbs had been committing for years.

23. The double standard of Western Powers had also manifested itself in the silence they had maintained regarding Israel's bombardment of the civilian population of Lebanon, its repeated violations of human rights in the occupied territories and its deportation of 12 United Nations employees.

24. His organization was particularly concerned about the detention of more than 25 employees of the United Nations Relief and Works Agency (UNRWA), given that torture was routine in Israeli prisons and in view of the introduction, on 22 April 1993, of a "new procedure" regarding the interrogation of prisoners which, according to the Israeli human rights organization B'Tselem, effectively permitted the humiliation and psychological and physical torture of Palestinian detainees. He gave the example of a Palestinian who had been arrested and interrogated in the period between the conclusion of the Oslo agreement and the signature of the Declaration of Principles in Washington. Thus, the use of torture had not ceased in the wake of the agreement between Israel and the Palestine Liberation Organization (PLO).

25. One of the major casualties of the Declaration of Principles was the situation of the Palestinian detainees. The international community should not be taken in by such good will gestures as the release of some 600 prisoners, most of whom had been near to the end of their terms. Hundreds of Palestinians under the age of 18 were still in Israeli prisons. It should also be noted that Palestinians belonging to parties which opposed the so-called peace process had been denied release solely on political grounds.

26. The continuing use of undercover Israeli military units to kill undesirable Palestinians - extrajudicial executions - was of particular concern. Israeli soldiers had also, in three separate incidents, opened fire on children, leaving two dead and a third critically wounded. Those barbaric acts were in violation of the Hague Convention, the Universal Declaration of Human Rights and the Fourth Geneva Convention.

27. In Somalia, the misconduct of the United Nations forces had been repeatedly demonstrated and should be condemned by the Commission. There should be a full investigation of the human rights violations committed by the multinational troops during their stay in Somalia and compensation to the Somalis for the injustices they had suffered.

28. As several NGOs had already mentioned, Mr. Mansour Al-Kikhia, a Libyan national who was a human rights defender and a former foreign minister of his country, had recently disappeared in Cairo. The Egyptian authorities, and the Working Group on Enforced or Involuntary Disappearances, had been informed, but no progress had been made on the case. He appealed to the Commission to urge all those concerned to release the findings of their investigation into the disappearance and to request the Libyan authorities to make every effort to locate Mr. Al-Kikhia.

29. Ms. ARBACH (Women's International League for Peace and Freedom) said that there had been, no substantive improvement in the situation in Sri Lanka in 1993, despite repeated Government assurances to the contrary. Her organization welcomed, however, Sri Lanka's accession to the Convention against Torture and urged the Government to ensure that members of its security forces could no longer engage in the torture of alleged suspects or detainees with impunity.

30. Impunity persisted in Sri Lanka. During the period from January 1991 to December 1992, 90 police officers had been found guilty of fundamental violations of the rights of detainees, including torture. However, the State had systematically paid the fines imposed on the police officers found guilty by the Supreme Court of violations of basic rights and had promoted them, thereby, giving members of the security forces the impression that they could detain and torture individuals with impunity and creating a climate of intimidation such that civilian members of the general public dared not defend their rights.

31. The recent promotion of the former Deputy Inspector-General of Police, Mr. Udugampola, was of particular concern in that regard since he had been implicated in several cases of gross violations of human rights, including the death of a lawyer in police custody. Although he was allegedly the subject of a criminal investigation, he had been appointed Acting Chairman of the Sri Lankan Ports Authority. It would be recalled that the Working Group on Enforced or Involuntary Disappearances had specifically asked the Government of Sri Lanka to take the human rights records of members of the armed forces and the police into account when it was considering promotions.

32. The recent discovery of a mass grave at Suriyakanda in Sri Lanka was significant, given the country's history of massive and unsolved disappearances. Human rights groups in Sri Lanka and abroad had expressed concern about the exhumation and investigation of the grave; particularly the absence of forensic expertise. Lawyers and others involved had been threatened and intimidated and it was feared that vital evidence might already have been destroyed.

33. Another noteworthy case was that of the feminist poet Selvanithy Thiagarajh. Arrested by the Liberation Tigers of Tamil Ealam at Jaffna in August 1991, her whereabouts remained unknown. Her organization appealed to those holding the poet in custody to release her forthwith.

34. Ethnic conflict still continued in Sri Lanka. Both parties to the conflict - the Government and the Liberation Tigers of Tamil Ealam - were responsible for that state of affairs. She urged them to consider initiating a peace process without delay and hoped that the Commission would endorse that appeal.

Statements in exercise of the right of reply

35. Mr. RODRIGUEZ ALPIZAR (Costa Rica) said that the prison system in his country was, perhaps, the best in Latin America and among the best in the world, as evidenced by the UNDP Human Development Report. His Government had also campaigned for prisoners' rights at the regional and international levels and had, in fact, provided the text which was being used as the basis for the preparation of the draft optional protocol to the Convention against Torture. If any NGOs had information about prison irregularities in his country they should make it available clearly and in detail.

36. Mr. KAKAKHEL (Pakistan) said that the recent comments by the representative of India on a statement by the representative of an NGO constituted a masterpiece of disinformation, chicanery, obfuscation, and arrogance, every paragraph of which was designed to mislead.

37. The document allegedly signed by the ruler of Jammu and Kashmir declaring the state's accession to India had been accepted by the then Governor-General on a provisional basis only, pending ascertainment of the wishes of the state's people. The provisional nature of the arrangement had in fact been acknowledged by India when it had accepted the Security Council resolutions providing for the holding of a free and impartial plebiscite to enable the Kashmiris to determine the final status of their state.

38. That plebescite had not been held because India had not honoured its commitment but had formally annexed Jammu and Kashmir, seeking to legitimize its action through subsequent fraudulent elections, at which the question of Kashmir's integration into India or Pakistan had not been an issue. Pakistan had agreed to all the arrangements for the plebiscite proposed by the United Nations representative entrusted with that matter. It was India which had rejected those arrangements.

39. If, the state of Jammu and Kashmir was an integral part of India, it was difficult to comprehend why the Kashmiris continue to fight for self-determination, despite all the violations of their human rights. Pakistan had, apparently, brainwashed all the millions of Kashmiris who had held a general strike on 5 February 1994, in response to the request of the Prime Minister of Pakistan.

40. India's claims to openness and transparency were an insult to the United Nations. They had been made only because of international pressure. In a five-year period, it had officially allowed only one international human

rights group - the International Commission of Jurists - to visit Kashmir. Other visitors, such as ambassadors, did not publish their reports and thus did not contribute to transparency. The International Committee of the Red Cross (ICRC) had been granted permission for a visit more than three years after the request had been submitted.

41. Mr. de SANTA CLARA GOMES (Observer for Portugal) said that the international community was well aware that very serious human rights violations were occurring in East Timor. His delegation welcomed any step taken by the Indonesian authorities to improve that situation, such as, their recent invitation to the Special Rapporteur on extrajudicial, summary or arbitrary executions to visit East Timor in 1994. It hoped that further steps would be taken to ensure respect for the human rights and fundamental freedoms of the people of East Timor.

42. His Government had repeatedly asserted that the question of East Timor could be resolved by completing the process of decolonization, in accordance with the United Nations Charter, and the relevant resolutions of the General Assembly and the Security Council, the validity of which it fully recognized.

43. Mr. KHOURY (Syrian Arab Republic) said, with regard to the five missing staff members of the United Nations, that the Permanent Mission of his country had informed the Centre for Human Rights, in a memorandum dated December 1991, that two of the individuals in question had been sentenced by the court for belonging to terrorist groups and for their participation in acts of terrorism in the Syrian Arab Republic. Two other individuals had apparently been arrested in 1993. The United Nations had made a request in that connection, which would be conveyed by his delegation to the competent Syrian authorities.

44. International PEN and some other non-governmental organizations had made allegations concerning the arrests of journalists and writers. All arrests in his country were made in accordance with the procedures set forth in the Criminal Code. Article 38 of the Syrian Constitution guaranteed all citizens the right to freedom of expression, and all citizens were free to offer objective criticism in the interest of national development. There were no prisoners of conscience in the country.

45. The state of emergency, an exceptional measure, was compatible with the Constitution. It had not been used often and was hardly used at all in connection with State security. The number of cases transmitted to the State Security Court was very limited, being those which directly involved State security. Judicial procedures in the State Security Court were the same as in other courts.

46. The "commission for the defence of freedom" was a front for crimes against the internal and external security of the State. Most of those accused had committed acts of terrorism in Syria, and the organizations to which they belonged were illegal. Those individuals had been brought to justice through legal means; some of them had been released or pardoned.

47. Any allegations of ill-treatment of prisoners in his country were totally unfounded. Health care was available for all prisoners. No prisoner had died while confined to a cell.

48. Mr. BENHIMA (Observer for Morocco) said that his delegation much appreciated the important role of the non-governmental organizations in ensuring respect for human rights and reporting violations thereof. However, some NGOs made allegations without a clear understanding of the issues and on the basis of fragmentary, imprecise and unverified information. Such allegations had to be refuted.

49. Several NGOs were trying to draw attention to so-called disappearances in his country. In 1990, a list of several hundred missing Saharans had been circulated by the Latin American Federation of Associations of Relatives of Disappeared Detainees, an organization whose links with the Frente POLISARIO were well known. Some of the individuals on that list had been found in Frente POLISARIO camps. Some of the disappearances had occurred when certain parts of the Sahara were not even under Moroccan jurisdiction. Moreover, the list was fraudulent in that names were juggled with, the order of first names and family names being changed and different transcriptions used.

50. If they wished to retain their credibility, those NGOs should investigate the violations of human rights in the Frente POLISARIO camps, as indicated in the Amnesty International report of 1993. The victims of those violations were hundreds of Saharans who claimed their Moroccan identity and refused to submit to those who were preventing them from returning to their homeland.

51. Mr. PALMA (Observer for the Philippines) said that his delegation was aware that the comments by the World Student Christian Federation were prompted by a genuine desire to enhance respect for human rights in the Philippines. However, he wished to make it clear that there were no political prisoners in the Philippines, if a political prisoner was defined as someone whose liberty had been curtailed it was because he or she held certain political beliefs. The pursuit of political ends did not exempt anyone from criminal liability if the means used constituted a criminal offence such as murder, and the 180 persons mentioned by that NGO had been arrested not because of their political beliefs but because they had violated the law in pursuing those beliefs.

52. The Federation had urged his Government to repeal the National Security Act, which made the illegal possession of firearms a capital offence. In fact, all capital penalties, including the penalty for the illegal possession of firearms, had been abolished in 1987. Only two kinds of arrest were currently authorized in the Philippines: in execution of a warrant and in flagrante delicto.

53. The Federation had also urged his Government to abolish the Citizen's Armed Forces Geographical Units (CAFGUs). In that connection, it must be understood that there were two armed insurrections active in the Philippines, one based on ideology and the other striving for secession. However, his Government was seriously considering the possibility of dismantling the CAFGUs in areas considered secure.

54. Mrs. SABHARWAL (India) said that cessation of aggression had been one of the conditions laid down in the relevant Security Council resolutions for the plebiscite in Jammu and Kashmir and the Government of Pakistan had thus been responsible for the non-implementation of those resolutions. Kashmir, which had been a symbol of the democratic secular nation of India for over 40 years had, for the last 5 years, been the target of Pakistan-sponsored terrorists and mercenaries.

55. Pakistan was responsible for the impediments to the full enjoyment of human rights in the Indian state of Jammu and Kashmir, which was facing an undeclared war, devised and directed by Pakistan. Pakistan's sole objective was territorial expansion and its methods involved violence and deception, not to mention ethnic cleansing by the majority Muslims of the former Hindu, Sikh, Buddhist and Christian communities.

56. Pakistan's call for self-determination in the state was clearly duplicitous and meant the forced accession of Kashmir to Pakistan. The latest expression of that goal had been the televised address by the Prime Minister of Pakistan. She had first called for self-determination for the people of Kashmir and then gone on to say that Kashmir would soon be part of Pakistan.

57. Mrs. FERRARO (United States of America) said, with regard to the statement made by the representative of Cuba, that the incidents of radiation testing on United States citizens several decades previously had been brought to the attention of the public in March 1992 by the United States Secretary of Energy at a well-publicized press conference. She assured the Commission that her Government was already committed to compensating those who had suffered as a result of those tests.

58. Mr. WIDODO (Indonesia) said that the Commission should remember that reports by special rapporteurs presented, for the most part, allegations of human rights violations which were as yet unverified and thus did not give an accurate picture of the situation being investigated. In the case of East Timor, unsubstantiated allegations orchestrated by certain quarters had complicated the issue, with the use of exaggerated communications, multiple submissions of complaints and incomplete identities and addresses of victims.

59. Indonesia was fully committed to participation in the tripartite dialogue, under the auspices of the Secretary-General of the United Nations, with a view to achieving a just, comprehensive and internationally acceptable solution to the question of East Timor.

60. Mr. KAKAKHEL (Pakistan) said that Kashmiris fighting for their human rights were not terrorists. The only crime they had committed was their emphatic rejection of Indian occupation. It was the Indian State and its military and paramilitary forces that were the terrorists. It was incredible that the perpetrators of terrorism should have the audacity to accuse the victims of being terrorists.

61. Kashmiris, human rights organizations and Pakistanis all agreed that India was guilty of human rights violations. The Indians said that no such violations of human rights had taken place and that Kashmiri terrorists, supported by Pakistan, had committed human rights violations. The Commission

has thus to decide between those allegations and to resolve that fundamental problem. The only logical solution was for the Commission to send a fact-finding mission to Kashmir to examine the situation in the territory administered by Pakistan and in the part that India had forcibly annexed. It would thus have a comprehensive picture of events in Kashmir and be able to determine what steps should be taken to end the sufferings of the Kashmiris. That would also make it possible for India and Pakistan to resolve their bilateral problems in an appropriate forum.

62. Mr. de SANTA CLARA GOMES (Observer for Portugal) said that his delegation welcomed the statement by the representative of Indonesia and its commitment to the talks being held under the auspices of the Secretary-General. It was to be hoped that those talks would lead to a just, global and internationally acceptable solution to the question of East Timor.

63. The CHAIRMAN said that the Commission had concluded its general debate on agenda item 10.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS;

(e) INTERNATIONAL YEAR OF THE FAMILY

(agenda item 11) (E/CN.4/1994/34-38, 39 and Corr.1, 40-42, 43 and Add.1, 44 and Add.1, 45 and 74; E/CN.4/1994/NGO/2-4; A/48/579)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 19) (E/CN.4/1994/75, 76 and Add.1, 77 and Add.1, 78 and Add.1 and 109; A/CONF.157/23)

64. Mr. DENG (Representative of the Secretary-General on internally displaced persons) said that, while the objectives of his mandate had been well defined, there was a considerable gap between its aspirations and his capacity to pursue them. Although much remained to be done by way of clarification of normative principles, the establishment of appropriate mechanisms and the formulation of effective strategies, the gap between ends and means constituted perhaps the most significant constraint on his mandate.

65. The first point to be emphasized was the magnitude and scope of the internal displacement crisis. When the Commission had first considered the issue, there had been about 24 million internally displaced persons. The following year, the numbers had risen to 25 million and the current estimate was 30 million. The figures continued to outpace those for refugees.

66. Those statistics indicated a tragedy of monumental proportions. They were not just statistics to him, for he had seen the people concerned in camps and settlements in several countries and had heard their stories. The tragedy was not confined to any particular region and, while some areas were more affected than others, the crisis was truly global.

67. While there were many causes of internal displacement, the most common were internal conflicts, communal violence, forced relocation and other gross violations of human rights. Among those, civil wars, especially those pertaining to racial, ethnic and religious conflicts, were by far the most difficult because they reflected crises of national identity. Internal conflicts created cleavages that often resulted in a vacuum of responsibility for the protection of the population. In such a situation, the international community had to step in and meet the humanitarian challenges posed by that void in terms not only of providing material assistance but also of ensuring the protection of the people concerned and respect for their fundamental human rights.

68. The problem of internal displacement could be solved only if the causes were addressed. Only peace could restore the confidence of those displaced by war to return to their homes and resume normal life. It was important that all concerned should realize the close interconnection between causes and consequences, and it would be remembered that the World Conference on Human Rights had called for a comprehensive approach by the international community. That approach would include the development of strategies to address the root causes and effects of movements of refugees and other displaced persons.

69. He firmly believed that he should keep in touch with realities in the field, sustaining a dialogue with Governments, exchanging views with other pertinent actors, working in close cooperation with the relevant international organization and otherwise pursuing practical measures to improve protection and assistance. The mere fact of his visit attracted the attention not only of the authorities but also of the other members of society.

70. While the visits paid to several countries during the first phase of the mandate were for the purpose of taking a cursory look at the situation in the field and opening a general discussion of issues with the authorities, the second-phase visits were intended to provide an understanding in greater depth of the problems and the necessary remedies. The only thorough visit he had undertaken during the period covered by his report, to Sri Lanka, had been an exemplary model and had set a high standard for future visits (E/CN.4/1994/44/Add.1).

71. On the issue of legal rules, there were no instruments so far focused on the specific needs of internally displaced persons, nor was there any clear formulation of the legal principles applicable. A consensus had emerged that the existing rules should be compiled and assessed and that a code of conduct was urgently needed.

72. There was a welcome tendency for international organizations to become more involved with the plight of the internally displaced, especially where there was a failure on the part of a Government or a controlling authority to live up to its responsibilities, because of a lack of capacity, of political will or of both. It was then incumbent upon the international community to fill the gap and provide the suffering masses with the needed protection and assistance.

73. On the basis of that guiding principle and given the existing constraints, in both human and material resources, the programme of action had focused on raising the level of consciousness regarding the crisis of internal displacement, maintaining close consultation with the specialized circles of the United Nations system, accepting invitations from Governments for field visits and exploring more effective ways of addressing the crisis within the framework of his mandate.

74. In the coming year, he intended to visit at least four more countries (invitations had already been received from Colombia and Burundi) and make a comprehensive review of the crisis of internal displacement and how it manifested itself at the regional and country levels. In so doing, he intended to maintain close contact with other representatives, rapporteurs and working groups in areas of mutual concern and to collaborate with the specialized agencies and independent research institutions. It was essential that he carry out those plans if he was to realize the objectives for which the mandate had been established, since there was as yet no single organization mandated to take full responsibility for those persons.

75. Sooner or later, the issue of institutional responsibility would have to be resolved. In the meantime, much might depend on the effectiveness of his mandate. If he was able to identify his programme of activities and at least narrow the gap between aspirations and performance, he could achieve a significant level of effectiveness as a catalyst for ensuring protection and assistance through a network of other agencies and organizations, national and international, intergovernmental and non-governmental.

76. To do so, however, he needed commensurate resources. His mandate was concerned with masses of people whose needs for protection were immense and for whom the normative principles and enforcement mechanisms were still inadequate and ineffective. The international community must not become complacent regarding the crisis of internal displacement simply because of the existence of his mandate.

77. Mr. YALDEN (Canada) said that his Government and the Canadian Human Rights Commission, of which he was the Head, had played an active role in supporting the development of a network of national institutions throughout the world by providing financial support and making a considerable effort in terms of personnel and administrative resources. Just as effective mechanisms

were necessary at the international level to implement the commitments made by States internationally, proper national institutions were the guarantor of those commitments within the individual State.

78. As for the argument that the courts existed for the purpose of ensuring adherence to human rights principles and that human rights agencies merely duplicated their work, it was his experience that courts were already overworked and were too complicated for the average person. Human rights institutions had to have an appropriate range of powers and guarantees and it was gratifying that the General Assembly had welcomed the standards that institutions from around the world had developed at the Paris Workshop in 1991 and since reconfirmed. Those principles were, inter alia, that institutions must be independent of Governments, have a reliable source of financing, be pluralistic and represent those in society involved in the promotion and protection of human rights, and have the power to comment on the human rights performance of the Government of their country.

79. It made perfect sense for international and national human rights mechanisms to be mutually reinforcing. While the Universal Declaration and the International Conventions on Human Rights had laid the foundations for the world's human rights system, domestic legislation was needed to give it a national structure, while domestic institutions ensured that it was a vital part of society.

80. Consequently, the institutions that had attended the Tunis Workshop in December 1993 recommended that the Commission should take appropriate steps to ensure that national institutions participated in their own right, with a recognized status, in the work of the United Nations organs responsible for human rights.

81. Mr. BOUCHET (France), speaking on behalf of the French Human Rights Commission, of which he was President, welcomed the adoption of General Assembly resolution 48/134 on national institutions for the promotion and protection of human rights. He was particularly pleased that the resolution went a step beyond previous ones in that it welcomed the growing interest shown worldwide in the creation and strengthening of national institutions. He also noted with satisfaction that its annex contained principles relating to their status, elaborated during the first International Workshop on National Institutions for the Promotion and Protection of Human Rights, held in Paris in 1991 and reaffirmed during the second International Workshop held at Tunis in December 1993. Those principles served as a common reference that could be adapted to different national situations. Stressing the independence and pluralist nature of national institutions, the principles had become well established.

82. The French Human Rights Commission, founded by René Cassin, in 1947, had been legislatively confirmed in 1990 and attached to the office of the Prime Minister. Its independence had been expressly recognized in 1993. At that time, the Mediator of the French Republic (ombudsman) had become a member of the Commission so as to improve the coordination between the two institutions. At the Tunis Workshop, it had become apparent that the

evolution of other national institutions had been very similar. The current task was to ensure that national institutions, based on the recognized principles, were established in most of the Member States.

83. The Tunis Workshop had drawn attention, by special recommendations, to the urgency of giving priority to action in favour of women and disadvantaged or vulnerable groups, such as the handicapped, children, migrants and the victims of arbitrary detentions. It had expressed alarm at the widespread practice of torture and inhuman or degrading treatment of persons rightly or wrongly suspected of subversion or of supporting opposition movements. In that connection, it had recalled article 5 of the Universal Declaration of Human Rights and had urged all national institutions to accord priority to persuading their Governments to prevent and punish such practices. National institutions were responding to that appeal, often despite great cost difficulties. They trusted the Commission would do likewise.

84. Mrs. FERRARO (United States of America), noting that violence and discrimination against women persisted - in conflicts, in refugee camps, in the streets, in the home and in the workplace - said that her delegation was very pleased that the question was finally on the human rights agenda. It was also pleased that the Vienna Declaration and Programme of Action had urged that the full and equal enjoyment by women of all human rights should be a priority for Governments and for the United Nations. It welcomed the statement by the new United Nations High Commissioner for Human Rights that ensuring respect for and promoting the human rights of women would be one of his principal endeavours.

85. That would not be an easy process, however. Violence against women knew no borders. It occurred among the rich and among the poor; in the developed and developing world; on all continents and among all religious groups. It was a reflection of women's second-tier status in society, as the Secretary-General of the Fourth World Conference on Women had just pointed out. The problem would not be resolved until women had an equal voice in the home, the boardroom, the chambers of justice and the dark councils where decisions were made regarding life and death. It was not women who were firing shells into Sarajevo, suppressing democracy in Burma or Cuba, or bombing refugee camps in the Sudan.

86. Her delegation had strongly supported Commission resolution 1993/46 on integrating the rights of women into the human rights mechanisms of the United Nations, and in particular, its decision that, at its fiftieth session, the Commission should consider the appointment of a special rapporteur on violence against women and its request to all special rapporteurs and working groups of the Commission and the Sub-Commission to include in their reports available information on human rights violations affecting women. That resolution provided the Commission with some genuine tools to address the problem of violence against women.

87. Her delegation wished to commend the United Nations High Commissioner for Refugees, on the excellent work of her Office and, in particular, on the report on sexual violence against refugee women it had submitted to the General Assembly. The report described situations of rape and sexual violence used to intimidate specific ethnic, cultural or religious groups, forcing them

to seek refuge in other countries, and the sexual abuse of women and girls during flight or on arrival in countries of asylum. The Commission, too, must begin to take steps to put an end to the continuing assault of refugee women and girls.

88. Her delegation intended to participate very actively in the work of the Commission on a wide range of women's issues. She noted that the Vienna Declaration and Programme of Action stated (para. 18) that the human rights of women should form an integral part of the United Nations human rights activities. The commitment of President Clinton's Administration to women's issues was unprecedented in the history of the United States. It enjoyed the full backing of the country's citizens and political institutions.

89. Ms. WENSLEY (Australia) said that she wished to refer to a paragraph in the Vienna Declaration and Programme of Action that had been included on the initiative of her delegation. That paragraph (para. 71) recommended that each State should consider the desirability of drawing up a national action plan identifying steps it might take in order to improve the promotion and protection of human rights.

90. In putting forward that proposal, her delegation had emphasized that each State was free to choose whether or not it wished to draw up such an action plan and that each action plan should take into account the State's individual circumstances. The purpose had been to find a vehicle for national follow-up to the World Conference on Human Rights.

91. Against that backdrop, she was pleased to present Australia's National Action Plan to the Commission. The Plan was a comprehensive survey of all aspects of Australian Government policy relating to human rights and social justice. It proposed government measures for the protection of civil, political, economic and social rights, including the rights of indigenous peoples, children and women, and the right to health and education. In each specific area, it outlined the features of current policy, the challenges ahead and proposed national action.

92. Its preparation had required extensive coordination within the Australian Federal Government and between the Government and Australian non-governmental organizations (NGOs). It was a clear statement of Australia's commitment to the protection and implementation of human rights at the national level. The initial Plan, elaborated in the months since the World Conference on Human Rights, focused on Federal Government policies. The National Action Plan to be issued in five years' time would also include input from Australia's six States and two territories.

93. Her Government believed that the promotion and protection of human rights was the responsibility of all States, irrespective of their political and economic system. In pursuing its own human rights policies, it had stressed dialogue, practical measures and effectiveness. Her delegation was aware that Australia's human rights record was far from perfect, particularly with respect to the treatment of aboriginal and Torres Strait Islander peoples. The National Action Plan recognized that fact and proposed measures to change the situation. All comments by the international community on the Australian National Action Plan would be welcome.

94. Her delegation hoped that the National Action Plan would be a useful guide to any other States which might decide to prepare their own action plans. It also hoped that States choosing to prepare such a plan would be able to seek technical assistance from the United Nations Centre for Human Rights.

95. Mr. VERGNE SABOIA (Brazil) said that agenda item 11 had taken on a special significance not only because the Commission was holding its fiftieth session but also and particularly because it was the first session to be held since the adoption of the Vienna Declaration and Programme of Action and the establishment of the post of High Commissioner for Human Rights.

96. The Vienna Declaration and Programme of Action had overcome many of the puzzling dilemmas that had for years been the subject of contentious debate under that agenda item and indicated the road to further promotion of human rights. It had reaffirmed the universal nature of human rights and recognized the promotion and protection of all human rights as a legitimate concern of the international community.

97. It enshrined, for the first time with such clarity, the essential relationship between democracy, development and human rights and gave final consensual status to the right to development as an inalienable human right for the realization of which national action and international cooperation must be mobilized. It also addressed the protection and promotion of the rights of women, children, vulnerable groups and indigenous peoples and called for strengthened mechanisms for monitoring compliance with international standards.

98. The adoption by the General Assembly of the resolution establishing the post and mandate of a High Commissioner for Human Rights was another significant and positive development. The High Commissioner was expected to integrate human rights activities at the highest levels of the United Nations and to maintain a permanent dialogue with Governments and institutions. Together with the Commission, he was to usher in a new era in human rights activities following the Vienna Declaration and Programme of Action, particularly by taking an integrated approach to the monitoring of human rights and by playing a key role in the enhancement of international cooperation in that field. He should also play a major role in promoting the right to development.

99. The global and integrated approach recommended by the Vienna Declaration would become a reality only if adequate resources were allocated to international cooperation and technical assistance in the field of human rights. The international community must be prepared to make a financial contribution that reflected its commitment to that cause.

100. Since 1992, his delegation had been sustaining in the Commission an initiative concerning the promotion and strengthening of the rule of law. It had cited the lack of or weaknesses in the systems upholding the rule of law as one of the main causes of human rights violations. That initiative represented a genuinely integrated and global approach, for appropriate

structures and systems that would guarantee a whole range of rights, including the right to the proper administration of justice, law enforcement, freedom of expression and assembly and freedom of association and collective bargaining.

101. His delegation was encouraged by the fact that the World Conference on Human Rights had endorsed those concepts in the Vienna Declaration and Programme of Action (paras. 69 and 70). The Programme envisaged there was intended to provide, upon the request of Governments, technical and financial assistance to national plans of action or projects aimed at reforming penal and correctional establishments and training lawyers, judges and security forces in human rights and other relevant areas.

102. Noting that General Assembly resolution 48/132 on strengthening of the rule of law endorsed the recommendation of the World Conference, he said that his delegation was looking forward to the Secretary-General's presentation of proposals for the establishment, structure, operational modalities and funding of the proposed programme. His delegation intended to submit a draft resolution on the question for the Commission's consideration.

103. His delegation fully supported the move to incorporate the protection of women's rights into the mainstream of the international human rights system. It also supported the appointment of a special rapporteur on violence against women, in accordance with the recommendation of the World Conference and Commission resolution 1993/46.

104. His delegation valued the contribution of thematic rapporteurs and working groups and various treaty and non-treaty bodies to the promotion and protection of human rights. It had maintained an excellent dialogue and cooperated fully with a number of the rapporteurs and working groups.

105. In view of the increased number of rapporteurs and human rights mechanisms, however, coordination must be enhanced in order to avoid duplicating work and overburdening States with requests. It would also be necessary to ensure that the increasingly complex system functioned in a coherent manner and in compliance with the policy directives established by the Commission and by the States parties to the various human rights instruments. The High Commissioner for Human Rights should examine that question.

The meeting rose at 1.10 p.m.